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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,663	02/28/2002	Kenichiro Ohtsuka	50212-356	2507
20277	7590	04/13/2004	EXAMINER	
MCDERMOTT WILL & EMERY 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				DOAN, JENNIFER
			ART UNIT	PAPER NUMBER
				2874

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/084,663	OHTSUKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer Doan	2874	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 June 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 6.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings, filed on 06/18/2002, are accepted.

### ***Specification***

2. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai et al. (U.S. Patent 5,815,621).

Sakai et al. disclose (in figures 1 and 25) a method and an apparatus of an optical connector ferrule (100) with a pair of guide holes (130) for guide pin insertion (column 5, lines 4-5 and column 6, lines 34-43) and one or a plurality of optical fiber positioning holes (column 5, lines 3-4) extending inwardly from the connection end surface wherein said connector involves a filler (column 10, lines 1-8) having a chamfer provided at the opening edge portion of the guide holes (130) on the connection end surface side as shown in figures. wherein the guide hole inherently comprises a first hole portion with a substantially constant diameter connected to the chamfer and extending inside the connector ferrule and a second hole portion connected to said first hole portion, extending to the end surface side opposite to the connection end surface and having a diameter larger than that of said first hole portion.

Sakai et al. disclose all the limitations of the claimed invention, except for an average particle size of filler no more than 20  $\mu\text{m}$  or 40  $\mu\text{m}$  as recited in claims 1, 2, 11 and 12. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the size of a filler no more than 20  $\mu\text{m}$  or 40  $\mu\text{m}$ , since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (MPEP § 2144.05).

Sakai et al. disclose all the limitations of the claimed invention, except for the surface roughness of the chamfer being 0.01 – 2.0  $\mu\text{m}$  as recited in claim 3. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ this range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (MPEP § 2144.05).

Sakai et al. disclose all the limitations of the claimed invention, except for the opening diameter of the guide hole at the connector end larger than by 0.3-0.8 mm than that of the guide hole inside the ferrule as recited in claim 4. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ this range of the guide holes, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (MPEP § 2144.05).

Sakai et al. disclose all the limitations of the claimed invention, except for the filler being silica as recited in claims 7 and 15. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ silica as a filler, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Sakai et al. disclose all the limitations of the claimed invention, except for the length from the base of the curved portion to the tip of the guide pin no more than half of

its diameter as recited in claim 10. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ this range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (MPEP § 2144.05).

***Obvious Type Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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7. Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6-9 and 12 of U.S. Patent No. 6,676,300.

Although claims 1-16 of the present invention and claims 1, 6-9 and 12 of U.S. Patent No. 6,676,300 are not identical, they are not patentably distinct from each other because they essentially recite the same arrangement of an optical ferrule for an optical fiber connector. The claims are therefore *not* patentably distinct.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kakii et al. (U.S. Patent 4,950,048) and (U.S. Patent 4,952,263), Honjo et al. (U.S. Patent 5,949,937), Ohtsuka et al. (U.S. Patent 6,062,740), Sakurai et al. (U.S. Patent 6,340,247) and Ueda et al. (U.S. Patent 6,409,394) disclose an optical fiber connector.

9. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 06/18/2002, have all been considered and made of record (note the attached copy of form PTO-1449).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Doan whose telephone number is (571) 272-2346. The examiner can normally be reached on Monday to Thursday from 6:00am to 3:30pm, second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*Jennifer Doan*

JD  
February 23, 2004

*Akmal*  
AKM ENAYET ULLAH  
PRIMARY EXAMINER